



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

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| Policy No. DOC 3.3.1 | Subject: LEGAL RIGHTS OF OFFENDERS |
| Chapter 3: FACILITY/PROGRAM OPERATIONS | Page 1 of 3 |
| Section 3: Offender Privileges | Effective Date: June 1, 1998 |
| Signature: /s/ Mike Ferriter, Director | Revision Dates: 06/26/02; 07/26/06 |

I. POLICY

The Department of Corrections will operate facilities and programs according to accepted constitutional, legal, and professional correctional standards and ensure that offenders are afforded all established rights consistent with their status.

II. APPLICABILITY

All Department divisions, facilities, and programs.

III. REFERENCES

- A. 2-15-112, 52-5-108; *Montana Code Annotated*
- B. *Constitution of the State of Montana: Article II, Declaration of Rights, Section 28, The Rights of the Convicted*
- C. 4-4277, -4278, -4281, -4282, -4283, -4346, -4348, -4351; *ACA Standards for Adult Correctional Institutions, 4th Edition*; 3-JTS-3D-04, -06, -08; *Standards for Juvenile Correctional Facilities, 2003*
- D. *DOC Policies 3.1.17, Searches and Contraband Control; 5.4.1, Offender Mail; 5.4.4, Offender Visiting*

IV. DEFINITIONS

None.

V. DEPARTMENT DIRECTIVES

A. General Requirements

1. Except as may be required for the security and orderly operation of a facility or program, no offender will be denied access to any program or service, or assigned or not assigned to a job, housing unit, classification status, or program solely on the basis of race, national origin, gender, religion, creed, sexual orientation, physical disability, or political belief.
2. Exceptions may apply to cases in which age, gender, medical condition, physical or mental disability may preclude participation in a particular correctional facility or program.
3. Department attorneys are available to provide general legal advice in all areas of department-related activities to ensure compliance with federal, state, and local laws, regulations, and court decisions.

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4. The Department will adhere to good correctional practice in providing the following conditions of confinement to offenders:
 - a. the types of housing available in the facility will include cell housing, or closely supervised dormitories, with specific types of housing assignments conditioned on the offender's classification;
 - b. clean and orderly surroundings;
 - c. adequate toilet, bathing, and laundry facilities;
 - d. living conditions that are in compliance with local, state, and federal fire and safety laws and regulations;
 - e. a wholesome, properly prepared, nutritionally adequate diet, in accordance with Department food service policies;
 - f. clean, fitted, and seasonable clothing;
 - g. a dignified conversational form of address in keeping with the protocol of the facility or program. Offenders will be addressed by name rather than offender number;
 - h. participation in the classification and appeal process to the extent that offender participation does not disrupt the procedure;
 - i. personal grooming choices are permitted as long as they do not conflict with facility or program requirements or protocol for safety, security, identification, or hygiene;
 - j. offenders' personal funds will be managed by accepted accounting procedures. No offender will be permitted to conduct a business of any type while in confinement without approval of the facility or program administrator;
 - k. indoor and outdoor recreation consistent with classification, custody level, and program protocol or policy;
 - l. clergy, spiritual advisors, publications, and related services approved by the facility that allow offenders to voluntarily adhere to legitimate religious practices;
 - m. communication or correspondence between offenders and their families, friends, public officials, attorneys, officers of the court, and other persons and organizations limited only to maintain order and security, facilitate treatment of offenders, protect the public safety, and comply with *DOC Policy 5.4.1, Offender Mail*;
 - n. searches of persons and property will comply with *DOC Policy 3.1.17, Searches and Contraband Control*;
 - o. visitation privileges will be afforded in accordance with *DOC Policy 5.4.4, Offender Visiting*;
 - p. access to job training, where appropriate and available;
 - q. access to educational programming;
 - r. access to community programming and resources, where appropriate and available; and
 - s. gender specific medical care.

B. Health Care

1. Adequate health care services must be available and must include the following:
 - an assessment of offender health needs and general condition upon admission
 - a thorough physical examination prior to admission for youth offenders as required by state statute

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- medical, dental, and mental health services provided by persons with appropriate training and under the supervision of a licensed practitioner
- emergency medical and dental treatment on a 24-hour basis
- access to a licensed medical facility and competent medical, dental, and mental health personnel

C. Personal Treatment

1. No offender will be subjected by staff to any of the following conditions:

- corporal punishment
- personal abuse
- deliberate or unnecessary personal injury or disease
- deliberate or unnecessary property damage
- use of unnecessary force
- use of unnecessary chemical restraint, such as medication

D. Interpretation and Application of Regulations

1. The interpretation and application of facility or program regulations will take place in the least restrictive manner appropriate to offender security levels and in accordance with facility procedures.

VI. CLOSING

Questions concerning this policy should be directed to the immediate supervisor.